

REMARKS

Claims 1-17 are pending in the application. In the Office Action of May 20, 2004, the Examiner made the following disposition:

- A.) Rejected claims 1-17 under 35 U.S.C. §112, first paragraph.
- B.) Rejected claims 1-17 under 35 U.S.C. §112, second paragraph.
- C.) Rejected claims 1-6, 8 and 11-16 under 35 U.S.C. §102(b) as being allegedly anticipated by *Blecher*.
- D.) Rejected claims 1-4, 12-15 and 17 under 35 U.S.C. §102(b) as being allegedly anticipated by *Rosenblatt*.
- E.) Rejected claims 1-3, 5, 6, 11-13 and 15-17 under 35 U.S.C. §102(b) as being allegedly anticipated by *Levy et al.*
- F.) Rejected claims 1-3, 5-7, 9, 12-15 and 17 under 35 U.S.C. 102(b) as being allegedly anticipated by *Chang*.
- G.) Rejected claims 1, 3, 5, 6, 11 and 12 under 35 U.S.C. §102(b) as being allegedly anticipated by *Mayer*.
- H.) Rejected claims 1, 4-6 and 12 under 35 U.S.C. §102(b) as being allegedly anticipated by *Grady*.
- I.) Rejected claims 1, 4-6 and 11-17 under 35 U.S.C. §102(b) as being allegedly anticipated by *Cambio Jr.*
- J.) Rejected claims 1-17 under 35 U.S.C. §103(a) as being allegedly upatentable over *Schiemann* in view of *Grady* and *Cambio Jr.*

Applicant respectfully traverses the rejections and addresses the Examiner's disposition below.

- A.) Rejection of claims 1-17 under 35 U.S.C. §112, first paragraph:

Applicant respectfully disagrees with the rejection.

Claims 1 and 15 each claim a side wall that terminates at a top of the second container portion such that the second container portion does not have a shoulder or a neck at the top. Applicant respectfully submits that this claimed subject matter is supported in the specification, for example, in Figures 1 and 3. As shown, in the illustrative container 10 of Figures 1 and 3, the second container portion 28 has no shoulder or neck. Applicant submits that the terms "shoulder" and "neck" are terms of art. One having skill in the art would recognize that a container portion can be formed without a shoulder or neck.

It appears that the Examiner is trying to read the limitation "the top open end edge

terminates with an upwardly extending vertical wall that forms a neck" into claims 1 and 15. (Office Action of 5/20/04, page 2). It further appears that the Examiner argues that when a container has a "top open end edge [that] terminates with an upwardly extending vertical wall" that that forms a neck. *Id.* Applicant respectfully disagrees with both of those contentions made by the Examiner. First, claims 1 and 15 do not include the language used by the examiner. Instead claims 1 and 15 claim that the second container portion does not have a shoulder or a neck at the top. Second, Applicant respectfully disagrees with the Examiner's definition of a neck. According to the Examiner's definition, any container that has an "open edge [that] terminates with an upwardly extending vertical wall" has a neck. Applicant respectfully disagrees. Applicant submits that the Examiner's definition of "neck" is not the same as the term "neck" as known in the art. If the Examiner contends that the Examiner's definition of "neck" is correct with the definition of "neck" in the art, then Applicant respectfully requests that the Examiner provide support for that definition.

Accordingly, Applicant submits that the subject matter of claims 1 and 15 is supported in the specification, and do not require amendment.

Claims 2-14 and 16-17 depend directly or indirectly from claim 1 or 15 and are therefore allowable for at least the same reasons that claims 1 and 15 are allowable.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

B.) Rejection of claims 1-17 under 35 U.S.C. §112, second paragraph:

Claims 1 and 15 have been amended as per the Examiner's request to overcome the rejection.

Claims 2-14 and 16-17 depend directly or indirectly from claim 1 or 15 and are therefore allowable for at least the same reasons that claims 1 and 15 are allowable.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

C.) Rejection of claims 1-6, 8 and 11-16 under 35 U.S.C. §102(b) as being allegedly anticipated by Blecher:

Applicant respectfully disagrees with the rejection.

Applicant's independent claim 1, as amended, claims a container comprising a first container portion having a wall defining an interior and an exterior of the first container portion,

and a second container portion having a wall defining an interior and an exterior of the second container portion. The wall of the second container portion defines a side wall of the second container portion that terminates at a top of the second container portion such that the second container portion does not have a shoulder or a neck at the top of the second container portion. (An illustrative example of the second container portion 28 is illustratively depicted in Figure 3). The exterior of the second container portion is spaced apart from the exterior of the first container portion via a connecting portion. The second container portion is fixedly connected to the first container portion solely along a length of a single side of the second container portion by the connecting portion. The first container portion, second container portion and connecting portion are co-molded.

Applicant's independent claim 15, as amended, claims a method of forming a container, the method comprising the steps of: co-molding a wall defining an interior and an exterior of a first container portion, a wall defining an interior and an exterior of a second container portion, the wall of the second container portion defining a side wall of the second container that terminates at a top of the second container portion such that the second container portion does not have a shoulder or a neck at the top of the second container portion, and a connecting portion integral to and spacing apart the exteriors of the first container portion and the second container portion. The second container portion is fixedly connected to the first container portion solely along a length of a single side of the second container portion by the connecting portion.

This is clearly unlike *Blecher*, which fails to disclose or even suggest a second container portion that is fixedly connected to a first container portion solely along a length of a single side of the second container portion by a connecting portion. Referring to *Blecher* Figure 1, *Blecher* discloses an apparatus 10 connected to a two-piece closure member 24 via a flexible strap 22. Since the strap 22 is flexible, the closure member 24 can be secured to the top of the apparatus 10 to seal the top of the apparatus 10 (Figure 2), and the closure member 24 can be removed from the top of the apparatus 10 (Figure 1). Thus, unlike claims 1 and 15, *Blecher's* closure member 24 is not fixedly connected to *Blecher's* apparatus 10, because *Blecher's* strap 22 is flexible to allow the closure member 24 to be purposefully movable. For at least this reason, *Blecher* fails to anticipate claims 1 and 15.

Further, unlike claims 1 and 15, *Blecher's* closure member 24 is not connected to *Blecher's* apparatus 10 along a length of a single side of *Blecher's* closure member 24 by *Blecher's* strap 22. Instead, *Blecher's* strap 22 merely connects to a *Blecher's* closure member 24 at a point on the top of the closure member 24, not along a length thereof. For at least this

additional reason, *Blecher* fails to disclose or even suggest claims 1 and 15.

Claims 2-14 and 16-17 depend directly or indirectly from claim 1 or 15 and are therefore allowable for at least the same reasons that claims 1 and 15 are allowable.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

D.) Rejection of claims 1-4, 12-15 and 17 under 35 U.S.C. §102(b) as being allegedly anticipated by *Rosenblatt*:

Applicant respectfully disagrees with the rejection.

Applicant's independent claims 1 and 15 are described above.

Rosenblatt clearly fails to disclose or even suggest claims 1 and 15, since *Rosenblatt* clearly fails to teach an exterior of a second container portion that is spaced apart from an exterior of a first container portion via a connecting portion. Specifically, *Rosenblatt's* container portions share a common sidewall with no connecting portion therebetween. Referring to *Rosenblatt* Figures 2, 3 and 5, in those embodiments, *Rosenblatt* discloses two container portions that share a common sidewall, with no connecting portion therebetween. Those embodiments fail to even suggest the use of a connecting portion.

Referring to *Rosenblatt* Figures 8-11, in those embodiments, *Rosenblatt* teaches two enclosures 70 and 74 that are held together by a rubber band 86. There is no connecting portion between the two enclosures 70 and 74. Further, the two enclosures 70 and 74 are not spaced apart by a connecting portion. Instead, the two enclosures 70 and 74 contact each other. Thus, the embodiments represented by *Rosenblatt* Figures 8-11 also fail to disclose or suggest claims 1 and 15.

Claims 2-14 and 16-17 depend directly or indirectly from claim 1 or 15 and are therefore allowable for at least the same reasons that claims 1 and 15 are allowable.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

E.) Rejection of claims 1-3, 5, 6, 11-13 and 15-17 under 35 U.S.C. §102(b) as being allegedly anticipated by *Levy et al.*:

Applicant respectfully disagrees with the rejection.

Applicant's independent claims 1 and 15 are described above.

Levy clearly fails to disclose or even suggest claims 1 and 15, since *Levy* clearly fails to

teach an exterior of a second container portion that is spaced apart from an exterior of a first container portion via a connecting portion. Referring to *Levy* Figure 2., *Levy* discloses a double-ended perfume bottle in which an inner container portion S2 is located inside of an outer container portion S1. Thus, unlike claims 1 and 15, an exterior of *Levy*'s inner container portion S2 is not spaced apart from an exterior of *Levy*'s outer container portion S1 via a connecting portion. Instead, an exterior of *Levy*'s inner container portion S2 is integrally formed to an interior wall of *Levy*'s output container portion S1. For at least this reason, *Levy* fails to disclose or suggest claims 1 and 15.

Claims 2-14 and 16-17 depend directly or indirectly from claim 1 or 15 and are therefore allowable for at least the same reasons that claims 1 and 15 are allowable.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

F.) Rejection of claims 1-3, 5-7, 9, 12-15 and 17 under 35 U.S.C. 102(b) as being allegedly anticipated by *Chang*:

Applicant respectfully disagrees with the rejection.

Applicant's independent claims 1 and 15 are described above.

Chang clearly fails to disclose or even suggest claims 1 and 15, since *Chang* clearly fails to teach an exterior of a second container portion that is spaced apart from an exterior of a first container portion via a connecting portion. Specifically, *Chang*'s container portions share a common bottom wall with no connecting portion therebetween. Referring to *Chang* Figures 1 and 2, in those embodiments, *Chang* discloses two container portions that share a common bottom wall, with no connecting portion therebetween. Accordingly, those embodiments fail to even suggest the use of a connecting portion, which is claimed in claims 1 and 15.

Referring to *Chang* Figures 3-6, in those embodiments, *Chang* teaches two separate enclosures that can be fitted together. Thus, unlike claims 1 and 15, *Chang*'s separate enclosures are not co-molded. For at least this reason, the embodiments of *Chang* Figures 3-6 fail to disclose or even suggest claims 1 and 15.

Claims 2-14 and 16-17 depend directly or indirectly from claim 1 or 15 and are therefore allowable for at least the same reasons that claims 1 and 15 are allowable.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

G.) Rejection of claims 1, 3, 5, 6, 11 and 12 under 35 U.S.C. §102(b) as being allegedly anticipated by Mayer:

Applicant respectfully disagrees with the rejection.

Applicant's independent claims 1 and 15 are described above.

Mayer clearly fails to disclose or even suggest claims 1 and 15, since *Mayer* clearly fails to teach an exterior of a second container portion that is spaced apart from an exterior of a first container portion via a connecting portion. Specifically, *Mayer's* container portions share a common bottom wall with no connecting portion therebetween. Referring to *Mayer* Figures 1-5, *Mayer* discloses two container portions that share a common bottom wall, with no connecting portion therebetween. In fact, nowhere does *Mayer* even suggest a connecting portion. Thus, for at least these reasons, *Mayer* fails to disclose or even suggest claims 1 and 15.

Claims 2-14 and 16-17 depend directly or indirectly from claim 1 or 15 and are therefore allowable for at least the same reasons that claims 1 and 15 are allowable.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

H.) Rejection of claims 1, 4-6 and 12 under 35 U.S.C. §102(b) as being allegedly anticipated by Grady:

Applicant respectfully disagrees with the rejection.

Applicant's independent claims 1 and 15 are described above.

Grady clearly fails to disclose or even suggest claims 1 and 15, since *Grady* clearly fails to teach an exterior of a second container portion that is spaced apart from an exterior of a first container portion via a connecting portion. Specifically, *Grady's* container 101 and scabbard 114 share a common sidewall with no connecting portion therebetween. Referring to *Grady* Figures 2, 3, 4 and 5, *Grady* discloses a container 101 and a scabbard 114 that share a common sidewall, with no connecting portion therebetween. In fact, nowhere does *Grady* even suggest a connecting portion. Thus, for at least these reasons, *Grady* fails to disclose or even suggest claims 1 and 15.

Claims 2-14 and 16-17 depend directly or indirectly from claim 1 or 15 and are therefore allowable for at least the same reasons that claims 1 and 15 are allowable.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

I.) Rejection of claims 1, 4-6 and 11-17 under 35 U.S.C. §102(b) as being allegedly anticipated by *Cambio Jr.*:

Applicant respectfully disagrees with the rejection.

Applicant's independent claims 1 and 15 are described above.

Cambior clearly fails to disclose or even suggest claims 1 and 15, since *Cambio* clearly fails to teach a second container portion being fixedly connected to a first container portion solely along a length of a single side of the second container portion by a connecting portion. Referring to *Cambio* Figures 6 and 7, *Cambio* discloses a conduit 12 that is attached at its sidewall to a sidewall of a body 15 via a connecting portion, and that also bends around to share a common wall with the bottom of the body 15. Thus, *Cambio's* conduit is not connected to its body solely along a length of a single side of the conduit by a connecting portion. Further, unlike claims 1 and 15, *Cambio's* conduit 12 has a threaded neck 13. Therefore, for at least these reasons, *Cambio* fails to disclose or even suggest claims 1 and 15.

Claims 2-14 and 16-17 depend directly or indirectly from claim 1 or 15 and are therefore allowable for at least the same reasons that claims 1 and 15 are allowable.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

J.) Rejection of claims 1-17 under 35 U.S.C. §103(a) as being allegedly unpatentable over *Schiemann* in view of *Grady* and *Cambio Jr.*:

Applicant respectfully disagrees with the rejection.

Applicant's independent claims 1 and 15 are described above.

As acknowledged by the Examiner, Unlike claims 1 and 15, *Schiemann* fails to disclose or even suggest a second container portion that has neither a shoulder nor a neck. Therefore, the Examiner combines *Schiemann* with *Grady*, however, *Schiemann* in view of *Grady* still fails to disclose or suggest claims 1 and 15. Applicant respectfully submits that one having skill in the art would not have been motivated to combine *Schiemann* with *Grady* to disclose or suggest claims 1 and 15. *Schiemann* teaches two cans 12 and 13 that each have a shoulder and a threaded neck. The cans 12 and 13 are clearly described as having necks so that liquids can be poured out from the cans. (Col. 3, line 3-5). On the other hand, *Grady* teaches a container that has an integrally formed scabbard 114. As shown in *Grady* Figure 1, the scabbard has no shoulder or neck, so that the scabbard 114 can accommodate a tool (holding member) 114, not a liquid.

Therefore, Applicant respectfully submits that one having skill in the art would not have

been motivated to replace *Schiemann*'s second can 13, which is configured to hold liquids, with *Grady*'s scabbard, which is configured to hold a tool. The objectives of the cited references are unrelated. Namely, *Schiemann* provides a device to hold liquids and *Grady* provides a device to hold a tool. There is no suggestion in either cited reference to replace *Schiemann*'s second can 13 with a scabbard, such as *Grady*'s scabbard 114.

Thus, *Schiemann* in view of *Grady* fails to disclose or suggest claims 1 and 15.

Schiemann in view of *Grady* and *Cambio* still fails to disclose or suggest claims 1 and 15. As clearly stated in *Cambio*, *Cambio* teaches a body 15 and a conduit 12, wherein the conduit 12 has a threaded neck 13. Thus, *Cambio* still fails to teach a second container portion that has neither a shoulder nor a neck, as claimed in claims 1 and 15. Therefore, *Schiemann* in view of *Grady* and *Cambio* still fails to disclose or suggest claims 1 and 15.

Claims 2-14 and 16-17 depend directly or indirectly from claim 1 or 15 and are therefore allowable for at least the same reasons that claims 1 and 15 are allowable.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

CONCLUSION

In view of the foregoing, it is submitted that claim 1-17 are patentable. It is therefore submitted that the application is in condition for allowance. Notice to that effect is respectfully requested.

Respectfully submitted,

 (Reg. No. 45,034)
Christopher P. Rauch
SONNENSCHEIN, NATH & ROSENTHAL LLP
P.O. Box #061080
Wacker Drive Station - Sears Tower
Chicago, IL 60606-1080
Telephone 312/876-2606
Customer #26263
Attorneys for Applicant(s)



CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited as First Class Mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 20, 2004.


Christopher P. Rauch (Reg. No. 45,034)